

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 2/11/2014	(3) CONTACT/PHONE Tim Tomlinson, Development Services Division (805) 781-5271	
(4) SUBJECT Hearing to consider a request by Robert and Melanie Tucker for a variance granting modification of special construction standards in a flood hazard zone and submittal of a resolution approving the requested variance. District 5.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt the attached resolution approving the requested variance.			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT N/A	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? N/A
(10) AGENDA PLACEMENT { } Consent { } Presentation {X} Hearing (Time Est. ____) { } Board Business (Time Est. ____)			
(11) EXECUTED DOCUMENTS {X} Resolutions { } Contracts { } Ordinances { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A { } 4/5 Vote Required {X} N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY { } N/A Date: <u>09/10/13, #21</u>	
(17) ADMINISTRATIVE OFFICE REVIEW <i>Nikki J. Schmidt</i>			
(18) SUPERVISOR DISTRICT(S) District 5 -			

Reference: 14FEB11-H-1

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works

Tim Tomlinson, Development Services Division

VIA: Dave Flynn, Deputy Director of Public Works

DATE: 2/11/2014

SUBJECT: Hearing to consider a request by Robert and Melanie Tucker for a variance granting modification of special construction standards in a flood hazard zone and submittal of a resolution approving the requested variance. District 5.

RECOMMENDATION

It is recommended that the Board adopt the attached resolution approving the requested variance.

DISCUSSION

This item is continued from September 10, 2013 in which Robert and Melanie Tucker were requesting a variance of the County's Land Use Ordinance (22.14.060 D. 1. a.).

At the September hearing, your Board directed staff to work with the applicant towards a solution that may allow their new structure to remain and which ensures that flood requirements under Federal Emergency Management Agency (FEMA) Flood plan guidelines can be adequately addressed. As requested, the applicant has provided an engineered analysis of the flooding impacts and plan for emergency flood response. The analysis and plan has been reviewed and accepted by Public Works staff which supports the adoption of the attached resolution granting a variance to construction in a flood hazard.

Background / History

In April 2012, a Code Enforcement Case (COD2011-00677) was initiated against the Tuckers when an un-permitted structure was discovered on their property. This new structure is a metal building located on a concrete foundation and is currently used as a commercial dog kennel. Per local ordinance, an un-permitted structure requires permitting to allow its existing use to continue in compliance with local building codes and ordinances.

In an attempt to remedy the code enforcement action, the Tuckers applied for a building permit (PMT2012-01817) for the new kennel building. During the building permit review process, it was discovered that the new structure is located within the 100 year flood way of the Salinas River. In a large storm event, the new structure would be inundated by floodwaters of the Salinas River.

Furthermore, as this new structure is also located in the “Regulatory Flood Way” (rather than just merely in the “floodplain”), the new structure would be subjected to the river forces, suffer significant structural failure, and be partly or entirely washed downstream.

The County ordinance (22.14.060 D.1.a) limits placing new structures in a floodplain or floodway. A portion of this ordinance states:

“No construction or grading shall limit the capacity of the floodway or increase flood heights on existing structures unless the adverse effect of the increase is rectified to the satisfaction of the Director of Public Works. In no case shall flood heights be increased above that allowed under the Federal Flood Insurance Program.”

In order to prevent these hazards, County ordinance (22.14.060.D.4) requires the applicant’s engineer to certify the floor of the structure is either one foot above 100 year flood level or that the structure is floodproofed to “... withstand the flood depths, pressures, velocities, impact and uplift forces, and other forces associated with a 100-year flood.”

Federal Regulations

The County’s Land Use Ordinance implements the requirements of the National Flood Insurance Program (NFIP) which is administered by the Federal Emergency Management Agency (FEMA). The intent of the National Flood Insurance Program is to lessen the threat to life and property attendant to structures built in a Flood Hazard Zone. One primary facet of this program requires that no new structures or other impairments to flow be constructed within the Regulatory Flood Way. The Regulatory Flood Way must be preserved to adequately conduct run off in the watershed during the larger storms.

The NFIP allows for exceptions when the eleven criteria indicated for the exceptions have been satisfied. These criteria primarily focus on protecting the community from progressive impacts to the floodplain, but also consider hardship of the applicant. The criteria and the measures that satisfy the criteria are outlined in the attached resolution.

Since the September hearing, staff has worked with the applicant and the applicant’s engineer. The engineer has demonstrated that any flood elevation rise due to the structure is limited to the Tucker’s property and has certified that structure is flood proofed. The applicant has developed a plan to “unbolt” and remove the wall panels from the metal building whenever flooding is imminent. This will allow any flood waters to pass through the structure without destroying it. The type of building and the type of use within the building are anticipated to readily accommodate such a flood event without significant damage. Also any changes in water levels, when measured at the property edges, are negligible. A copy of the applicant’s plan is attached.

Therefore, with the applicant’s plan in effect, staff recommends this variance be approved subject to the findings delineated in the resolution.

OTHER AGENCY INVOLVEMENT/IMPACT

The Department of Planning and Building is also involved in flood plain management as they implement most of the provisions of the Land Use Ordinance. They issue building permits and

inspect construction after the application is reviewed for flood hazard concerns by the Public Works Department. The two departments act jointly to carry out the requirements of FEMA and the NFIP.

FINANCIAL CONSIDERATIONS

The cost for implementing and maintaining the plan are the responsibility of the applicant. There are no anticipated costs to the County associated with approving or denying the variance.

RESULTS

Approving the requested variance will allow the applicant to complete the building permit process and ultimately continue to use the new structure for their business. Adoption of the resolution provides for the County's consistent implementation of Federal flood plan requirements which leads to a well-governed community.

Reference: 14SEP11-H-1

File: Flood Hazard Waivers TJT

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ATTACHMENTS

1. Vicinity Map
2. Variance Request from the Tuckers
3. Engineering Report - JKEngineering dated 11/16/2013
4. RCK Emergency Flooding Plan
5. Resolution Approving a Variance and Exception Waiving Certain Construction Standards of the Land Use Ordinance in a Flood Hazard Area